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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,845	07/24/2001	Wolfgang Schnell	7101/0J637	3895
7278	7590	03/09/2004	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			BOYER, CHARLES I	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/911,845	SCHNELL ET AL
	<b>Examiner</b>	<b>Art Unit</b>
	Charles I Boyer	1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 December 2003.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 and 14-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12 and 14-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

This action is responsive to applicants' amendment and response received Dec 5, 2003. Claims 1-12 and 14-17 are currently pending.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim language A, B, and/or C is confusing because it allows for seven possible combinations of components to be present in the composition. That is: A alone, B alone, C alone, A and B, A and C, B and C, and A, B, and C. It is not clear what components applicants wish to be included in their composition.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Goedhart et al, US 4,591,448.

Goedhart et al teach a layered clay in dishwashing applications (see abstract). An example of such a composition comprises 5% Laponite, which appears to be the preferred sheet silicate of the present claims, and 1% nonionic surfactant (col. 3, example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory. With respect to polyethylene glycol and propylene glycol, the examiner notes these are optional components in the claims. With respect to claims 8 and 12, as component C is not required in the composition, the molecular weight and amount of component C specified in claims 8 and 12 do not represent claim limitations.

Applicants have traversed this rejection on the grounds that the reference is not drawn to the care and maintenance of water resistant surfaces and the composition of the reference is not capable of forming a film. First, with respect to the composition presently claimed, the examiner notes the care and maintenance of water resistant surfaces is merely the ultimate utility of applicants' invention and does not limit the claim. Any composition containing the presently claimed components therefore, whatever it is drawn to, will satisfy the claim limitations. With respect to the method claims, the examiner maintains that as the reference is drawn to a hard surface cleaner, and such surfaces are inherently water resistant, the presently claimed method is satisfied. With respect to the composition being capable of forming a film, as the

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composition of the reference contains the same components in the same proportions as that presently claimed, the composition will inherently possess film forming properties.

3. Claims 1-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lambremont et al, US 5,707,952.

Lambremont et al teach thickened hard surface cleaners (see abstract). An example of such a composition comprises 2% Laponite, which appears to be the preferred sheet silicate of the present claims, and 2.25% ethoxylated alcohol nonionic surfactant (col. 9, example 1C). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have traversed this rejection on the grounds that the reference is not drawn to the care and maintenance of water resistant surfaces and the composition of the reference is not capable of forming a film. First, with respect to the composition presently claimed, the examiner notes the care and maintenance of water resistant surfaces is merely the ultimate utility of applicants' invention and does not limit the claim. Any composition containing the presently claimed components therefore, whatever it is drawn to, will satisfy the claim limitations. With respect to the method claims, the examiner maintains that as the reference is drawn to a hard surface cleaner, and such surfaces are inherently water resistant, the presently claimed method is

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satisfied. With respect to the composition being capable of forming a film, as the composition of the reference contains the same components in the same proportions as that presently claimed, the composition will inherently possess film forming properties.

4. Claims 1-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dixit et al, US 5,468,411.

Dixit et al teach powdered dishwashing compositions (see abstract). An example of such a composition comprises 3% Laponite, which appears to be the preferred sheet silicate of the present claims, and 4.5% ethoxylated alcohol nonionic surfactant (col. 21, table VIIIB). As this reference meets all material limitations of the claims at hand, the reference is anticipatory. The examiner recognizes that this example is taught by the reference as being an inferior composition, nevertheless, as the components are identical to applicants' presently claimed composition, the examiner maintains the anticipatory requirements are satisfied.

Applicants have traversed this rejection on the grounds that the reference is not drawn to the care and maintenance of water resistant surfaces and the composition of the reference is not capable of forming a film. First, with respect to the composition presently claimed, the examiner notes the care and maintenance of water resistant surfaces is merely the ultimate utility of applicants' invention and does not limit the claim. Any composition containing the presently claimed components therefore,

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whatever it is drawn to, will satisfy the claim limitations. With respect to the method claims, the examiner maintains that as the reference is drawn to a hard surface cleaner, and such surfaces are inherently water resistant, the presently claimed method is satisfied. With respect to the composition being capable of forming a film, as the composition of the reference contains the same components in the same proportions as that presently claimed, the composition will inherently possess film forming properties.

5. Claims 1-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Goedhart et al, US 4,597,886.

Goedhart et al teach a layered clay in dishwashing applications (see abstract). An example of such a composition comprises 5% Laponite, which appears to be the preferred sheet silicate of the present claims, and 1.5% ethoxylated/propoxylated alcohol nonionic surfactant (col. 3, example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have traversed this rejection on the grounds that the reference is not drawn to the care and maintenance of water resistant surfaces and the composition of the reference is not capable of forming a film. First, with respect to the composition presently claimed, the examiner notes the care and maintenance of water resistant surfaces is merely the ultimate utility of applicants' invention and does not limit the claim. Any composition containing the presently claimed components therefore,

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whatever it is drawn to, will satisfy the claim limitations. With respect to the method claims, the examiner maintains that as the reference is drawn to a hard surface cleaner, and such surfaces are inherently water resistant, the presently claimed method is satisfied. With respect to the composition being capable of forming a film, as the composition of the reference contains the same components in the same proportions as that presently claimed, the composition will inherently possess film forming properties.

6. Claims 1-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Rayner, US 3,966,432.

Rayner teaches liquid abrasives with clay suspending agents (see abstract). An example of such a composition comprises 1.1% Laponite, which appears to be the preferred sheet silicate of the present claims, and 4.45% ethoxylated alcohol nonionic surfactant (col. 3, example 5). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Applicants have traversed this rejection on the grounds that the reference is not drawn to the care and maintenance of water resistant surfaces and the composition of the reference is not capable of forming a film. First, with respect to the composition presently claimed, the examiner notes the care and maintenance of water resistant surfaces is merely the ultimate utility of applicants' invention and does not limit the claim. Any composition containing the presently claimed components therefore,

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whatever it is drawn to, will satisfy the claim limitations. With respect to the method claims, the examiner maintains that as the reference is drawn to a hard surface cleaner, and such surfaces are inherently water resistant, the presently claimed method is satisfied. With respect to the composition being capable of forming a film, as the composition of the reference contains the same components in the same proportions as that presently claimed, the composition will inherently possess film forming properties.

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Boyer whose telephone number is (703) 308-2524. The examiner can normally be reached on Monday-Friday from 9:30 AM - 6:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 872-9310 for non-after-final amendments and (703) 872-9311 for after-final amendments.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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Charles Boyer

March 4, 2004

A handwritten signature in black ink that reads "Charles Boyer". The signature is fluid and cursive, with "Charles" on the first line and "Boyer" on the second line.